

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY

IN RE: . Case No. 22-19361-MBK  
BLOCKFI INC., et al., . (Jointly Administered)  
Debtors. .  
. August 1, 2023  
. 10:30 a.m.

TRANSCRIPT OF MOTIONS HEARING  
BEFORE THE HONORABLE MICHAEL B. KAPLAN  
UNITED STATES BANKRUPTCY COURT JUDGE

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1 THE COURT: Okay. We'll start off in a moment,  
2 everyone. Good morning. This is Judge Kaplan. We will start  
3 the BlockFi Inc. matters.

4 As usual, with remote appearances should you wish to  
5 be heard, please make use of the raise hand function, and I  
6 will do my best to call upon you.

7 You beat me almost to punch, Ms. Okike. So why don't  
8 we turn to -- I have the amended agenda. Let me hear from  
9 debtors' counsel.

10 MS. OKIKE: Thank you, Your Honor. Good morning.  
11 Christine Okike of Kirkland Ellis on behalf of the debtors.

12 Your Honor, we are pleased to be before you today to  
13 announce that the debtors and the Committee reached a global  
14 settlement, which has been incorporated into the plan and  
15 disclosure statement that we filed at Docket Numbers 1300 and  
16 1301 respectively, and that the debtors and the Committee are  
17 working hand in hand to bring these Chapter 11 cases to  
18 conclusion as quickly as possible and return value to BlockFi's  
19 customers.

20 Thank you to Your Honor for helping the parties reach  
21 this global settlement, which we believe maximizes value for  
22 creditors, best positions the debtors to prevail in significant  
23 litigation with FTX, Alameda, 3AC, and other parties, and  
24 allows the debtors to make distributions in kind which we know  
25 is of critical importance to our clients.

1           Some key terms of the global settlement include the  
2 Committee's settlement parties, which include all persons who  
3 served as officers and/or directors of the debtors during these  
4 cases, will participate and assist the wind down trustee with  
5 any ongoing litigation including prosecuting claims against and  
6 by 3AC, FTX, Alameda, Core Scientific, and any other  
7 counterparties, and also assisting the wind down trustee in  
8 making in-kind distributions to creditors.

9           All preference claims held by the debtors against  
10 their clients will be released except for preference claims  
11 against any client that in total aggregate over \$250,000  
12 arising out of withdrawals from BlockFi interest accounts or  
13 BlockFi private accounts, other than the release of loan  
14 collateral upon the repayment of loans on and after November  
15 2nd, 2022 that are held by any debtor other than BlockFi  
16 International.

17           The Committee settlement party shall contribute a  
18 total of 2.25 million in cash to the estates and waive  
19 approximately seven million in claims against the debtors,  
20 which will increase recoveries for other creditors.

21           The Committee settlement parties will collectively  
22 contribute over 1500 hours in assisting the wind down trustee  
23 following the effective date of the plan, and in exchange for  
24 these contributions, all claims and causes of action by the  
25 debtors against the Committee settlement parties will be

1 released under the plan.

2           The plan contains an opt-out structure for third-  
3 party releases. Creditors who do not opt out will be deemed to  
4 have consensually released their direct claims against third  
5 parties and will receive a release from the debtors all of  
6 claim other than the retained preference claims.

7           We've included language clarifying that nothing in  
8 the plan settles, releases or discharges direct claims held by  
9 creditors who opt out of the third-party release, other than  
10 claims against the debtors which are going to be compromised  
11 under the plan.

12           In support of the debtor release, before filing any  
13 claim against any of the Committee settlement parties, any  
14 creditor must, first, have opted out of the third-party release  
15 and, second, obtained a ruling from Your Honor that all such  
16 claims fall outside the scope of the debtor release, including  
17 that they are not derivative claims.

18           The release of the Committee settlement parties is  
19 conditioned upon their cooperation and payment along the terms  
20 that I've outlined, and in the event that the wind down trustee  
21 does not believe that a Committee settlement party is honoring  
22 its cooperation or payment obligation, they will provide notice  
23 to that party. And if there continues to be a dispute over  
24 cooperation or payment following a ten-day notice period, the  
25 wind down trustee may ask the Court to void the debtor release

1 for lack of compliance with such settlement obligations.

2 And if the Court were to determine that any Committee  
3 settlement party has violated an obligation under the  
4 settlement and has not cured that violation, the debtor release  
5 would be void as to that individual.

6 The global settlement also provides that the  
7 insurance providers will not be released parties or releasing  
8 parties under the plan, and the Committee settlement parties  
9 will reserve all claims and causes of action against them.

10 Your Honor, we filed the original disclosure  
11 statement back on May 12th at Docket Number 876 and the  
12 supplemental motion on July 30th at Docket Number 1294. We  
13 also filed a motion to shorten notice with respect to the  
14 supplemental motion at Docket Number 1297, which Your Honor  
15 granted at Docket Number 1298, and we appreciate Your Honor  
16 hearing us on shortened notice.

17 Your Honor, we are seeking approval of the disclosure  
18 statement on a conditional basis so that we can begin  
19 soliciting votes on the plan and accelerate the plan  
20 confirmation process all with the goal of returning value to  
21 our stakeholders as quickly as possible.

22 We believe the disclosure statement contains adequate  
23 information, including with respect to among other things the  
24 debtors' corporate history, business operations, assets,  
25 organizational structure, and capital structure, the events

1 leading to the commencement of these Chapter 11 cases, the key  
2 events in the debtors' Chapter 11 cases, including the Special  
3 Committee's investigation and conclusions and the terms of the  
4 Committee settlement, the proposed debtor release, third-party  
5 release, exculpation and injunction provisions of the plan, a  
6 description of the material litigation claims against FTX,  
7 Alameda, 3AC, and other parties, a liquidation analysis, which  
8 shows that anticipated recoveries under the plan exceed  
9 recoveries under a hypothetical Chapter 7 liquidation, a  
10 description of certain risks associated with the plan, a  
11 description of certain U.S. federal income tax consequences of  
12 the plan, the procedures for soliciting votes to accept or  
13 reject the plan, the statutory requirements for confirmation  
14 and consummation of the plan, and a recommendation by the  
15 debtors that holders of claims in the voting classes vote to  
16 accept the plan.

17           Your Honor, while we believe the disclosure statement  
18 contains adequate information to allow a hypothetical creditor  
19 to determine how to vote, we're not seeking final approval of  
20 the disclosure statement today. We're only seeking approval on  
21 a conditional basis, an approval of the solicitation and voting  
22 procedures, and solicitation materials, including the ballots,  
23 notices, and letters, and related confirmation dates and  
24 deadlines.

25           Approval of the disclosure statement on a conditional

1 basis will allow us to begin the solicitation process now so  
2 that we can accelerate the timeline of these Chapter 11 cases.

3 Your Honor, we received three objections to the  
4 disclosure statement filed from the FTX debtors, 3AC, and the  
5 SEC. Importantly, Your Honor, not a single client, and the  
6 debtors have over 600,000 clients, filed an objection to the  
7 disclosure statement prior to or following the July 5th  
8 objection deadline, and the disclosure statement now includes a  
9 global settlement with the Committee.

10 We believe the objections from the FTX debtors, 3AC,  
11 and the SEC are moot for purposes of the limited relief we're  
12 seeking today, but I will briefly address each in turn.

13 The SEC filed a limited objection to the releases,  
14 which we believe has been addressed by revisions to the  
15 disclosure statement. There is significant disclosure about  
16 the debtor release, including the Special Committee  
17 investigation, conclusions, and recommendations, as well as the  
18 global settlement reached with the Committee, including the  
19 parties to be released and the contributions that they are  
20 making in exchange for the release.

21 There is a disclosure regarding the third-party  
22 release, including the opt-out mechanism, and the implications  
23 and considerations to be taken into account in deciding whether  
24 to exercise that election.

25 Your Honor, the FTX debtors and 3AC both filed



1 objections to the confirmation schedule, arguing that the  
2 timeline does not provide them with due process. We have made  
3 clear in the amended disclosure statement that the debtors  
4 dispute the claims filed by the FTX -- by FTX, Alameda, and  
5 3AC, and we intend to file objections to their claims in the  
6 near term, as well as motions seeking to estimate their claims.

7           While the debtors believe that the FTX, Alameda, and  
8 3AC claims should be disallowed, those parties will have a full  
9 and fair opportunity, like all other creditors, to have their  
10 claims adjudicated in accordance with due process requirements.

11           And to be clear, we're not asking the Court for  
12 approval of the disclosure statement to set a timeline for  
13 adjudicating their claims. We will do that outside of the plan  
14 process, and if FTX, Alameda or 3AC have an issue, they can  
15 object at the appropriate time.

16           Your Honor, we've also provided for flexibility in  
17 the treatment of the FTX, Alameda, and 3AC claims under the  
18 plan. While we believe their claim should be disallowed, and  
19 if not disallowed, recharacterized and/or subordinated, the  
20 treatment section provides that to the extent this Court  
21 determines otherwise, they will receive the same treatment as  
22 other creditors of the same priority at the relevant debtor  
23 entity.

24           So, FTX, 3AC, and Alameda we submit are not  
25 prejudiced by the plan, and, in fact, this is the same

1 structure we incorporated into Voyager's confirmed plan to deal  
2 with the dispute with the FTX debtor's asserted preference  
3 claims in that case, and which allowed the plan to be confirmed  
4 and distributions to be made to creditors.

5           Your Honor, it's critically important that BlockFi's  
6 Chapter 11 cases are not held hostage to FTX, Alameda, and  
7 3AC's own cases which are moving at a much slower pace. We  
8 want short term value to creditors on as quick a timeline as  
9 possible.

10           Your Honor, the FTX debtors and 3AC also argue that  
11 the disclosure statement does not provide a basis for  
12 rechartering and/or subordinating their claims. Your Honor,  
13 we have disclosed the claims asserted by FTX, Alameda, and 3AC,  
14 the counterclaims the debtors believe they have against them,  
15 and the reasons why the debtors believe their claim should be  
16 disallowed, recharacterized and/or subordinated.

17           We've also included high and low end projected  
18 recoveries for creditors which take into account the potential  
19 litigation outcomes with FTX, Alameda, and 3AC, and noted that  
20 this litigation will have a material impact on creditor  
21 recoveries.

22           Your Honor, we mention FTX 263 times in the  
23 disclosure statement, Alameda 122 times and 3AC 93 times, so  
24 the idea that we have not provided adequate disclosure for  
25 creditors to determine how to vote should be rejected outright.

1           The FTX debtors and 3AC feign objections to the  
2 disclosure statement in an effort to have the debtors reveal  
3 their litigation strategy to the litigation counterparties  
4 themselves, and, Your Honor, we submit this is inappropriate.

5           We have spoken to counsel to 3AC and agreed to make a  
6 change to their treatment under the plan, which clarifies that  
7 if the 3AC claims are allowed the debtors will seek to  
8 equitably subordinate them as opposed to the prior language  
9 which said they shall be equitably subordinated. I will let,  
10 you know, counsel for 3AC speak as to whether that resolves  
11 their disclosure statement objection.

12           Your Honor, again, while we believe we've provided  
13 adequate disclosure to creditors to determine how to vote,  
14 we're only seeking conditional approval at this time, and any  
15 objections to approval of the disclosure statement on a final  
16 basis can be made at the combined hearing. So we would  
17 respectfully request that Your Honor approve the disclosure  
18 statement on a conditional basis, as well as the solicitation  
19 procedures and materials, and related dates and deadlines.

20           Your Honor, I'm happy to answer any questions,  
21 otherwise I will cede the podium to any of the objectors.

22           THE COURT: All right. Thank you, Ms. Okike. Let me  
23 first turn to Committee counsel to see -- to have counsel  
24 advise the Court of their position.

25           MR. AULET: Thank you, Your Honor. Kenneth Aulet of

1 Brown Rudnick for the Committee.

2           Your Honor, the Committee supports this plan. I  
3 think it's important to step back a minute and remember that  
4 this is -- this is a very hard case. This is not a case where  
5 we ultimately had a business that could be saved and  
6 reorganized. This is a case where what we're doing here is  
7 we're trying to return the life savings of over 650,000  
8 individuals. It's not about allocating value between  
9 sophisticated commercial entities. It's not about trying to  
10 rebuild something. It's just about trying to get as much money  
11 back to the people who lost money as possible.

12           And, you know, we have all had to do that without the  
13 benefit of sort of the specialized laws that have been created  
14 to deal with companies that have such large numbers, the  
15 individual depositors or, you know, operate similar businesses.

16           And on that note, I also have to talk about the job  
17 that the Committee has been asked to do. The Committee are  
18 unpaid volunteers in this case. Each of them are significant  
19 creditors of BlockFi, who have devoted hours each week and  
20 sometimes days each week for free to working on this case and  
21 trying to do the best that they can do for each of the  
22 creditors that they represent.

23           You know, they've been asked to make very, very hard  
24 choices, choices that, you know, the professionals in this case  
25 who do this day in and day out struggle with, but to do those

1 without having had years of expertise in this and having to  
2 make decisions that not only affect their pocketbook, but  
3 realize that they're affecting the pocketbook of every single  
4 one of these 650,000 people, and that's a tremendous  
5 responsibility to put on to individual creditors who are  
6 volunteers in this case.

7           And, you know, they have executed the job that  
8 they've been asked to do better than anybody could have  
9 expected them to do. They've spent more time on this case than  
10 any other committee that I've ever seen day in and day out.  
11 They've asked more questions and been more involved and  
12 demanded to know why everything is happening, why every dollar  
13 that's being spent is being spent because ultimately every  
14 dollar that's been spent on these cases comes out of their and  
15 other creditors' pockets.

16           And, ultimately, again, this is not a case where  
17 we're going to have a win. This is a case where everybody is  
18 trying to get to the least bad result. Even if we ultimately  
19 get 100 percent distributions to creditors, many of those  
20 creditors were invested in Bitcoin, Ethereum, and maybe missing  
21 out on the value ramp up that happened between the petition  
22 date and today. And all of these choices were put on nine  
23 individuals who were asked to volunteer their time and did so.

24           And that brings us to where we are today. It's time  
25 to end this case, and we are pleased that we have a plan and

1 disclosure statement that the Committee can support. The  
2 settlement reached paves the way for these cases to end, you  
3 know, not only on the timeline the debtors proposed, but to  
4 accelerate emergence, and to deliver several valuable benefits  
5 to these creditors that we represent.

6           You know, the first is that this settlement finally  
7 puts creditors back in control of their own destiny following  
8 emergence date. The Committee on behalf of creditors will  
9 select a trustee. That trustee will answer to an oversight  
10 board composed of creditors, and the Bermuda JPLs, and  
11 creditors will ultimately get to make every decision going  
12 forward after that date on what money to spend, what should be  
13 done with the cause of action and finally have control of their  
14 own destiny.

15           We discussed a number of times the cost of these  
16 cases. We're pleased that we and the debtors were able to  
17 reach agreement on a budget which will in addition to ending  
18 the litigation between us and the debtors cut costs going  
19 forward to allow for greater distributions to customers by  
20 reducing the costs of these cases going forward through the  
21 emergence date.

22           We preserved valuable claims, including the claims  
23 against the D&O insurance carriers that we believe provide a  
24 avenue for additional recovery of creditors, and we've provided  
25 certainty to the vast majority of creditors that, you know,

1 preference claims before November 2nd are going to be waived  
2 entirely. It doesn't depend on how you vote. It doesn't  
3 depend on if you give a release or not. Those claims are gone  
4 and nobody needs to worry about them. Even for claims arising  
5 after November 2nd, only the largest of those claims will be  
6 preserved on claims over 250,000.

7           We believe that this provides a great deal of  
8 certainty for creditors that the preference claims that the  
9 Bankruptcy Code creates and imposes an obligation on the  
10 estates to preserve are maximized for the benefit of creditors,  
11 but also do not impose costs on the individual retail creditors  
12 in this case.

13           There's other structural changes. The convenience  
14 class will allow a large number of creditors to receive greater  
15 initial distributions, so that the estates don't have to bear  
16 the cost of providing future distributions, giving those  
17 creditors certainty and giving other creditors additional  
18 recoveries by cutting the costs of the post-emergence debtors.

19           We've expanded the authority of the wind down  
20 trustee, too. If they determine it's appropriate, make in kind  
21 of distributions beyond six months. That's going to be a  
22 decision that will have to be made by the wind down trustee  
23 under the circumstances, but we thought that it was important  
24 to if there's a cost effective way to do that to maintain that  
25 authority.

1 And, finally, again, we can end these cases, and we  
2 can begin the process of moving on, distributing all the value  
3 that's on BlockFi's books back to customers and begin dealing  
4 with the FTX claims, both the five billion of claims that  
5 they've asserted against BlockFi, which, you know, the  
6 Committee is entirely unamused by, and to recover the amounts  
7 that FTX and Alameda owe the creditors of BlockFi.

8 And with that, Your Honor, we'd ask that the Court  
9 approve the disclosure statement on a conditional basis.

10 THE COURT: Thank you, Mr. Aulet. Let me turn to the  
11 Office of the U.S. Trustee. Ms. Bielskie or Mr. Sponder, do  
12 you wish to be heard?

13 MR. SPONDER: Thank you, Your Honor. Good morning.  
14 This is Jeff Sponder from the Office of the United States  
15 Trustee.

16 Your Honor, prior to the debtor filing the amended  
17 plan and disclosure statement yesterday and seeking the  
18 conditional approval of such disclosure statement, it was my  
19 understanding that the U.S. Trustee and the Committee had until  
20 August 7th of this year to object to the prior disclosure  
21 statement and the solicitation procedures.

22 Instead of having until August 7th, 2023, with a  
23 hearing to be held on August 16th, 2023, the debtors are now  
24 seeking the conditional approval of the disclosure statement  
25 and the approval of the solicitation and notice procedures



1 today. As such, the U.S. Trustee's deadline to object to the  
2 solicitation and notice procedures has been decreased from  
3 August 7th, 2023 to today.

4 Your Honor, despite such reduction, the U.S. Trustee  
5 has quickly reviewed the solicitation and notice procedures  
6 even though more time is needed and provides the following  
7 comments.

8 Section (b), Your Honor, the ballots can only be  
9 submitted through the debtors' online balloting portal. The  
10 debtor should also be required to accept hard copies of ballots  
11 and provide an address to send such ballots.

12 Section (c) (3) (C) and (D), a resolution event means  
13 the occurrence of such event no later than two business days  
14 prior to the voting deadline. If a resolution event occurs and  
15 no later two business days after, the debtors must serve the  
16 solicitation package. So there is a chance that creditors will  
17 receive a solicitation package on the voting deadline.

18 Section (c) (5) requires objections to executory  
19 contracts to be served on parties in interest, which is not  
20 defined, via CD-ROM and PDF format. It's our belief a hard  
21 copy should suffice. There's no requirement that a CD-ROM  
22 should be provided.

23 Section (d) (3) (L), (M) and (N), the debtors may waive  
24 any ballot defect or irregularity, the debtors are under no  
25 duty to notify creditors of a defective vote or irregular

1 ballot, and the debtors may count and opt out for releases even  
2 if a ballot is deemed defective or irregular. As such, it  
3 appears that the debtors may pick and choose which ballots to  
4 keep even if defective or irregular, do not have to advise  
5 creditors of such invalidity, and can effectuate and opt out on  
6 a creditor that is deemed not allowed to vote on the plan.

7           Section (d)(3)(U), the debtors can enter into  
8 stipulations with creditors agreeing to amounts for voting  
9 purposes. However, will any such agreements be noticed to  
10 other parties in interest, and will they have a right to  
11 object?

12           Section (e), Your Honor, sets forth that the debtors  
13 reserve their rights to make changes to all these pleadings  
14 including the disclosure statement plan and solicitation  
15 package without further court order. The U.S. Trustee just  
16 wants to confirm that these changes without court order will  
17 only be typographical or grammatical changes.

18           Moving on, Your Honor, to the attachments. The  
19 notice of non-voting status as to unimpaired creditors, again,  
20 requires objections to be filed and served on parties in  
21 interest, that's not defined, by sending it via CD-ROM and PDF  
22 format. We think that parties in interest should be defined,  
23 and that a hard copy would suffice and not in a CD-ROM format.

24           It requires creditors to e-mail Kroll to receive a  
25 copy of the pleadings, or by requiring creditors to go to the

1 Kroll website or to the bankruptcy court website. As they are  
2 creditors, they should receive a copy of the pleadings just  
3 like all other -- all the creditors that are allowed to vote.

4 Then they'll receive an opt-out form and must submit  
5 it only via the online portal. Again, as stated earlier in the  
6 solicitation procedures, creditors should be allowed to submit  
7 an opt-out form via hard copy as well as the online portal.

8 Similarly, Your Honor, the notice of non-voting  
9 status as to impaired creditors and as well as to disputed  
10 claim holders have similar issues to them.

11 Moving on to the disclosure statement -- well, the  
12 confirmation hearing and the voting deadline and the objection  
13 deadline, it appears the debtors seek to establish September  
14 8th, 2023 as the voting deadline and the objection deadline, as  
15 well as having the combined confirmation adequacy hearing to be  
16 held 19 days later on September 27th of 2023.

17 Pursuant to the solicitation and notice procedures,  
18 the debtors will have 10 days after the order is entered to  
19 serve the solicitation notice packages. As such, if the order  
20 were entered today, and the debtors waited the 10 days, the  
21 service of the solicitation package, disclosure statement and  
22 plan would be 28 days prior to the objection voting deadline.  
23 If the order is entered tomorrow, then it would be less than 28  
24 days.

25 As the debtor has a 19-day buffer between the

1 objection/voting deadline and a confirmation adequacy hearing,  
2 the U.S. Trustee proposes that the objection voting deadline be  
3 moved to September 13th, 2023 and that confirmation remain on  
4 for September 27th, 2023. The debtors' reply brief to any  
5 objections can be due on September 20th, 2023.

6 Also, Your Honor, as it appears that the Committee  
7 and debtors have reached a resolution, which is incorporated in  
8 the plan, a question exists as to whether or not the debtor  
9 intends to pursue the insider 9019 motion that is pending which  
10 has objections due tomorrow. So we want to find out whether or  
11 not that will proceed or if that is basically being withdrawn,  
12 and that the settlement which includes what -- some of that  
13 information is already included in now the amended plan. Thank  
14 you, Your Honor.

15 THE COURT: Thank you, Mr. Sponder. Let me hear from  
16 others and then of course we'll go back. At this point does  
17 anyone else wish to be heard? Mr. Glueckstein?

18 MR. GLUECKSTEIN: Yes, good morning, Your Honor.  
19 Brian Glueckstein, Sullivan & Cromwell on behalf of the FTX  
20 debtors.

21 Your Honor, as represented by Ms. Okike, we did file  
22 an objection to the disclosure statement that was on file on  
23 behalf of the FTX debtors. The FTX debtors including Alameda  
24 have significant claims into these estates that have been filed  
25 that are being pursued on behalf of our creditors and the

1 victims of the FTX events.

2           We are pleased by the changes that were made to the  
3 disclosure statement that was filed only yesterday, that, as  
4 confirmed by counsel this morning, that any litigation that's  
5 forthcoming with respect to our claims has been removed as we  
6 understand it from the plan process and will be addressed  
7 separately in an objection to the claims for which we will have  
8 an opportunity to work with the debtors to schedule on an  
9 appropriate litigation timeline.

10           There are references made with respect to potential  
11 estimation of claims for distribution purposes. We have  
12 concerns about that. We obviously haven't seen a motion yet,  
13 and of course we'll respond to that and engage with the debtors  
14 if and when such a motion is filed.

15           But for purposes of today and the limited relief  
16 being requested today, Your Honor, with respect to the  
17 conditional approval of the disclosure statement, the changes  
18 that have been made with respect to the process as it pertains  
19 to the FTX debtors claims resolve our objection for purposes of  
20 today only and reserve all rights with respect to those claims  
21 in a future proceeding.

22           THE COURT: All right. Thank you, Mr. Glueckstein,  
23 appreciate it. Mr. Goldberg?

24           MR. GOLDBERG: Thank you, Your Honor. Adam Goldberg  
25 of Latham & Watkins on behalf of the Foreign Representatives of

1 the Three Arrows Capital estate.

2           Very briefly, Your Honor, that is -- Three Arrows  
3 Capital is in a liquidation proceeding in the British Virgin  
4 Islands, and we've been recognized as a foreign main proceeding  
5 in the Southern District of New York before Judge Glenn.

6           As Ms. Okike represented, we did object to the  
7 disclosure statement, and like FTX, we take the debtors'  
8 assurances both in discussions as well as on the record here  
9 that the plan will not seek to adjudicate our claims or  
10 subordinate them, and we were appreciative of the debtors'  
11 efforts in working with us on clarifying the treatment section  
12 to make clear that the plan does not equitably subordinate  
13 Three Arrows' claims, and instead those issues will be reserved  
14 for another day.

15           So, just to be brief, Your Honor, like FTX, our  
16 issues are resolved today. We're not here to hold up anything.  
17 We're here to assert the valid claims that Three Arrows has  
18 against these debtors for the benefit of the Three Arrows  
19 substantial creditors as well, and we look forward to working  
20 with the debtors towards a resolution of those, if that is  
21 possible, or being before Your Honor where necessary. Thank  
22 you.

23           THE COURT: Thank you, Mr. Goldberg. Does anyone  
24 else wish to be heard?

25           MR. MAZA: Yes, Your Honor. Alan Maza from the SEC.

1 THE COURT: Yes, please.

2 MR. MAZA: Okay. Thank you, Your Honor. In terms of  
3 our limited objection, so basically we have the -- a very  
4 pragmatic objection to just broad releases, which fail to  
5 really identify claims or, you know, parties, the consideration  
6 of particular parties, particularly when you have a broad  
7 related persons definition of former officers, directors.

8 And while we definitely understand in this unique  
9 case that there are a lot of parties that are giving  
10 consideration, which may be valid and justify the broad  
11 releases, it's not clear that every individual or entity that  
12 has been set forth in the released parties definition justifies  
13 this kind of broad release.

14 So, essentially, we would like to see the debtors  
15 really go through the paces and be specific or limit the  
16 particular release to those that could be justifiably entitled  
17 to this extraordinary relief. That's a general objection that  
18 we set forth in our limited objection.

19 In terms of one other issue we found a little  
20 concerning, and we brought this to debtors' counsel's  
21 attention, which could be resolved at any point, is that on  
22 Page 58 of the disclosure statement or 68 of the plan we  
23 identified language with particularly with respect to the  
24 release, which requires people, creditors who have already  
25 opted out of the release provision to go through an additional

1 hurdle of coming before the bankruptcy court to bless the  
2 release one more -- bless the exception to the release an  
3 additional time. We don't typically see that in many cases.

4 Plus, we feel that in a sense that could actually  
5 deter those who already went the extra step to opt out of the  
6 release to be able to preserve their direct claims to all of a  
7 sudden now go through this other additional step, which is not  
8 a simple step for, you know, many people. It's actually now  
9 hire a lawyer or (indiscernible) pro se come before Your Honor.

10

11 And if there is that burden, I think it should be  
12 actually be put on those parties that are getting the benefit  
13 of this release, that if they are sued in the state court,  
14 perhaps they could, you know, cross move or -- you know, not to  
15 advise how they should proceed, but make them come up with this  
16 additional hurdle to say, excuse me, that this release was not  
17 actually contemplated under the plan, but to push this burden  
18 onto the released creditor or the creditor that's opted out is  
19 -- we find that unfair.

20 So that's where we stand on those two issues.

21 THE COURT: All right. Thank you, Mr. Maza. I guess  
22 at first blush, it sounds like the burden is more on me. I'm  
23 going to have to hear these. So --

24 MR. MAZA: You know what, I should have taken that  
25 into consideration, but the -- yeah, certainly.



1 THE COURT: But I believe that issue and the others  
2 raised can obviously be addressed as part of the whole  
3 confirmation combined hearing.

4 Let me hear -- is there anyone else who wishes to  
5 weigh in?

6 (No audible response)

7 THE COURT: All right. Let me first express the  
8 Court's appreciation and gratitude and actual recognition to  
9 the efforts of the Committee, the Committee members, and its  
10 professionals, as well as the debtors' management and their  
11 professionals in reaching the accord and which will allow the  
12 case to move forward or at least the plan process to move  
13 forward and thereby avoid substantial additional administrative  
14 burdens.

15 It's important to this Court, and I think it's shared  
16 by the professionals, that the end game be recognized as trying  
17 to return value to the customer base and those that have placed  
18 at times their life savings and other significant sums at risk  
19 in the most expeditious and least costly fashion.

20 It has been pointed out that the burn rates of these  
21 crypto currency cases is extensive. Unfortunately, it's  
22 somewhat unavoidable given the plethora of issues, complex  
23 issues that are there. They are facing the receivers in  
24 foreign liquidation proceedings. They're facing the trustee's  
25 and those appointed to look after the interests, such as in

1 FTX, 3AC.

2           So, everyone is facing hurdles in these types of  
3 cases resulting from a lack of clarity with respect to the law  
4 as it applies to the tokens and the vast interrelationship of  
5 the claims among these entities.

6           These are difficult cases. The Committee in this  
7 case has faced difficult pragmatic decision-making choices  
8 about how to move forward and best protect the interest of  
9 creditors, somewhat distasteful at times in trying to reach an  
10 accord, but in the end I think we're moving in the most  
11 efficient and least costly path.

12           And both the debtors' professionals and the  
13 Committee's professionals have recognized the budgetary  
14 restraints, the significant run rates that we've -- and burn  
15 rates that we've been seeing, and I think the path chosen in  
16 proceeding towards a conditional approval makes the upmost  
17 sense.

18           I want to also express my appreciation to the Office  
19 of the U.S. Trustee in trying to review this hundred-page  
20 document with amendments and changes in what amounts to hours.  
21 I think they've undertaken a yeoman's work, and I recognize the  
22 difficulties.

23           And let me also express the Court's appreciation to  
24 both counsel for FTX and 3AC in recognizing the bigger picture  
25 and that they can protect their interests of their respective

1 clients and not impede the process here as in other cases as  
2 well.

3 My suggestion for the debtors' counsel and the U.S.  
4 Trustee with respect to those issues that have been raised  
5 would be to see if they can meet and confer either the rest of  
6 today or tomorrow.

7 I can schedule just a follow up call, and it's my  
8 intent to approve a conditional -- the disclosure statement on  
9 a conditional basis and set down this matter for confirmation  
10 hearing along the timeline with one adjustment that I'll talk  
11 about.

12 I think it would make sense rather than try to pick  
13 off these issues that have been raised by Mr. Sponder right now  
14 to allow counsel and the U.S. Trustee to try to see if they can  
15 pare down any issues, see what they can agree on.

16 I am available tomorrow afternoon for a follow up  
17 call, just among the parties in interest on these issues,  
18 meaning maybe the debtor and Committee and the U.S. Trustee,  
19 and if there can't be an agreement on any particular issue,  
20 I'll make the call then, so we can get the process started  
21 without delay.

22 I could do it tomorrow afternoon or I could do it on  
23 Thursday. I'll ask Ms. Okike to weigh in on how best to  
24 schedule it. I'm anticipating just a short follow up call,  
25 unless the parties can actually agree on all the issues that

1 have been raised. Also --

2 MS. OKIKE: Yes, Your Honor.

3 THE COURT: Yes.

4 MS. OKIKE: Oh, apologies.

5 THE COURT: Ms. Okike, if you could also discuss  
6 what's intended going forward with the 9019 and the like.

7 MS. OKIKE: Yes, Your Honor. We are happy to meet  
8 and confer with the trustee.

9 I would just raise I think one point which I think  
10 the debtors and the Committee are not going to amendable to  
11 that was raised was the idea of doing hard copy ballots. That  
12 is going to be astronomical cost for these estates, and we've  
13 worked very diligently with Kroll to set up this online  
14 balloting portal for submission of ballots and opt-out forms.

15 And if we were to undergo the hard copy ballot  
16 solicitation process, we're talking about increasing the cost  
17 here probably by, you know, millions and millions of dollars,  
18 which no one on the debtors' side or the Committee's side  
19 thinks is a good use of estate resources. So that's just one  
20 point that I know we will not reach agreement with the trustee  
21 on.

22 We're happy to work through the other issues.  
23 Unfortunately, we didn't receive the list of issues prior to  
24 this call, so it's hard for me to follow all of the things that  
25 he was referring to, but we're happy to work with the Committee

1 and the U.S. Trustee following this hearing to try to narrow  
2 the issues.

3 THE COURT: Would it make sense, and I'll -- I see  
4 Mr. Sponder's hand. I'll let him weigh in. Would it make  
5 sense to have a follow up Zoom call tomorrow afternoon?

6 MS. OKIKE: Yes, Your Honor. That works for the  
7 debtors.

8 THE COURT: Mr. Sponder, your thoughts on a 2:00 call  
9 tomorrow?

10 MR. SPONDER: Thank you, Your Honor. That is fine.  
11 I will note, and I know I was just reading through our issues,  
12 what we are asking for is that they can -- that the debtors can  
13 provide the ballots, and as long as they can be printed, that  
14 creditors can send it back via hard copy, not for the debtors  
15 to send it out via hard copy. We didn't go into that. So  
16 that's that issue.

17 Also, one of debtors' attorneys had asked me to send  
18 over the information that I just set forth on the record, which  
19 I already did, so that they have that information, and  
20 hopefully we can resolve most of the issues without having to  
21 have that call, even though I would love to have that call with  
22 you, Your Honor.

23 THE COURT: Well, who wouldn't? So I'll leave the  
24 call at -- we'll schedule it at 2:00 on a as needed basis.  
25 You'll contact chambers.

1           Otherwise, as I've indicated, I -- it makes sense to  
2 pursue this route. I'm prepared to set up approval on a  
3 conditional basis. The only tweak in the dates, the  
4 confirmation hearing date as requested is September 27th. It's  
5 unfortunately a Chapter 13 day for me I believe. I could  
6 either do the 26th, which is a Tuesday, or the 29th, which is a  
7 Friday. Is there a preference?

8           MS. OKIKE: Either of those is fine the debtors, Your  
9 Honor.

10           THE COURT: Well, then we always stay away from a  
11 Friday, so why don't we go with the -- we'll go with the 26th,  
12 and that gives us also room if we have to kick it a day or a  
13 couple of days. And --

14           MS. OKIKE: Thank you, Your Honor, and just to circle  
15 back on --

16           THE COURT: Yes.

17           MS. OKIKE: -- your question with regard to the 9019.  
18 So we will not be moving forward with the 9019 motion given  
19 that the settlement with the Committee has been incorporated  
20 into the plan. So we would -- we'd probably just adjourn that  
21 motion until we get to the confirmation hearing.

22           THE COURT: We'll carry it to the 26th then. We'll  
23 put down confirmation for 10:00 a.m. We'll carry the 9019  
24 that's scheduled now for the 16th. I'm sure my chambers will  
25 be reaching out for debtors' counsel just to review the matters

1 that are on for the 16th, which actually can be kicked to the  
2 confirmation date. We have the exclusivity motion --

3 MS. OKIKE: Yes, Your Honor. So I believe --

4 THE COURT: -- also --

5 MS. OKIKE: I believe we are cancelling the August  
6 16th hearing and keeping the 17th, which we also had.

7 THE COURT: All right.

8 MS. OKIKE: And so, as Your Honor knows, we have a  
9 bridge order on exclusivity that expires on August 16th, and so  
10 we're seeking approval of the proposed order that we filed  
11 along with the debtors' second motion for an extension, which  
12 was at Docket Number 886. That would extend our filing  
13 deadline to August 23rd and our solicitation deadline to  
14 September 30th.

15 We've obviously made substantial progress towards  
16 bringing these cases to conclusion, including reaching a global  
17 settlement with the Committee, and we're just seeking an  
18 extension to give the debtors the opportunity to prosecute the  
19 plan on file. So we'd respectfully request that you would  
20 enter that order.

21 THE COURT: All right. Mr. Sponder, your hand is  
22 raised again.

23 MR. SPONDER: Thank you, Your Honor. The United  
24 States Trustee doesn't have any issues with respect to the  
25 exclusivity.

1 I wanted to go back to the 9019, and our  
2 understanding was that this was going to be withdrawn, not  
3 adjourned, so it still requires objections to be filed. We do  
4 have an objection to that settlement. If the settlement is not  
5 going to be pursued, we don't think we should have to file an  
6 objection to it, if it's been incorporated in the plan, which  
7 was one of our objections to the prior -- to that settlement.

8 So right now as it stands we'd have to file an  
9 objection even though that might not -- it doesn't look like  
10 that that settlement would be going through.

11 THE COURT: Ms. Okike?

12 MS. OKIKE: Yes, Your Honor, we would just put the  
13 motion on a suspense docket, and we'd -- you know, if -- to the  
14 extent we were to go forward with it, if the global settlement  
15 were to fall apart for some reason, we would then, you know,  
16 renotice the objection deadline and give people an opportunity.

17 THE COURT: Okay. Why don't I do this, I think it  
18 would make the most sense, I'm going to mark it, that 9019  
19 motion withdrawn without prejudice. It could be reinstated by  
20 correspondence. So that if there is -- if there is a need,  
21 debtors' counsel will just contact chambers, and we'll  
22 recalendar it and that will trigger the new dates.

23 MS. OKIKE: Great. Thank you, Your Honor.

24 THE COURT: All right.

25 MR. SPONDER: Thank you, Your Honor.



1 THE COURT: Anyone else wish to be heard?

2 (No audible response)

3 THE COURT: So, the second matter on for today was  
4 Docket Number 886, the debtors' motion extending exclusivity.  
5 We're going to mark it granted if -- do we have a form of order  
6 already that was -- or does it have to be changed?

7 MS. OKIKE: Yes, Your Honor, we can resubmit it  
8 though.

9 THE COURT: Resubmit it just to make sure we have the  
10 right version, and otherwise, once again, I appreciate  
11 everybody's time and efforts. I think we're on a positive --  
12 we're pursuing a positive direction here. Thank you.

13 MS. OKIKE: Thank you, Your Honor.

14 THE COURT: You're welcome.

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C E R T I F I C A T I O N

I, COLETTE MEHESKI, court approved transcriber,  
certify that the foregoing is a correct transcript from the  
official electronic sound recording of the proceedings in the  
above-entitled matter and to the best of my ability.

/s/ Colette Meheski

COLETTE MEHESKI

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DATE: August 3, 2023